

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
PACIFIC GAS AND ELECTRIC
COMPANY,
Defendant.

Case No. 14-cr-00175-TEH-1

**ORDER DENYING APPLICATION
FOR LEAVE TO FILE *AMICUS
CURIAE* BRIEF**

Richard M. Peekema seeks permission to submit an *amicus curiae* brief to this Court regarding a potential explanation for the cause of the 2010 San Bruno pipeline explosion. *Amicus* Application (“App.”) at 1-2 (Dkt. No. 549). Specifically, Mr. Peekema, an attorney and retired Advisory Chemist for IBM Corporation, would like the Court to consider a research paper he authored for the American Society of Civil Engineers’ Journal of Pipeline Systems Engineering and Practice entitled *Causes of Natural Gas Pipeline Explosive Ruptures*. App., Ex. A. For the reasons set forth below, Mr. Peekema’s application is hereby DENIED.

I. District courts have authority to accept *amicus* briefs.

Though Mr. Peekema cites no law in support of his motion, federal district courts do possess the inherent authority to accept *amicus* briefs. *See In re Bayshore Ford Truck Sales, Inc.*, 471 F.3d 1233, 1249 n.34 (11th Cir. 2006) (“[D]istrict courts possess the inherent authority to appoint ‘friends of the court’ to assist in their proceedings.”); *Jin v. Ministry of State Sec.*, 557 F. Supp. 2d 131, 136 (D.D.C. 2008) (“[D]istrict courts have inherent authority to appoint or deny *amici*.”).

The role of an *amicus* is to assist the court “in cases of general public interest by making suggestions to the court, by providing supplementary assistance to existing counsel, and by insuring a complete and plenary presentation of difficult issues so that the

court may reach a proper decision.” *Newark Branch, N.A.A.C.P. v. Town of Harrison, N.J.*, 940 F.2d 792, 808 (3d Cir. 1991). Courts permit briefing from an *amicus* when: (1) a party is not represented competently; (2) the *amicus* has an interest that may be affected by the decision but does not entitle the *amicus* to intervene; or (3) the *amicus* has unique information or a new perspective that can help the court beyond what the parties can provide. *Ryan v. Commodity Futures Trading Comm’n*, 125 F.3d 1062, 1064 (7th Cir. 1997). Otherwise, leave to file an *amicus* brief should be denied. *Id.*

II. The issues contained in the proposed *amicus* brief were adequately briefed before the Court and mooted by the Court’s Order on Motions *in Limine*.

Mr. Peekema’s paper outlines a possible alternative cause of the San Bruno explosion – an “air-gas explosive expulsion” – that the National Transportation Safety Board (“NTSB”) did not consider in its investigation of the explosion. App. at 3. Mr. Peekema asks: “But do [the alleged deficiencies in the NTSB’s causation determination] have any bearing on the criminal trial in this case?” *Id.* at 4. The answer, is “No.” The Court has reiterated many times that this is not a trial about the explosion. *See, e.g.*, Order on Mots. *in Limine* at 37 (Dkt. No. 460). Moreover, the Court ruled that the jury is not tasked with determining the cause of the San Bruno explosion, and therefore that evidence relating to the cause of the explosion is inadmissible. *Id.* at 11. Finally, the Court also specifically ruled that the NTSB’s conclusions about the cause of the explosion are inadmissible. *Id.* at 14-15.

For these reasons, the Court sees no unique information or perspective to be gained from Mr. Peekema’s *amicus* brief that would be relevant to the issues before the Court. Accordingly, Mr. Peekema’s application is hereby DENIED.

IT IS SO ORDERED.

Dated: 06/15/16



THELTON E. HENDERSON
United States District Judge